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SENATE BILL 139

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Don Kidd

AN ACT

RELATING TO TAXATION; ENACTING THE SOFT DRINK TAX ACT;
PROVIDING FOR DISTRIBUTIONS TO SUPPORT DIABETES PREVENTION,
RESEARCH AND TREATMENT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 8 of this act may be cited as the "Soft Drink Tax Act".

Section 2. [NEW MATERIAL] DEFINITIONS. -- As used in the
Soft Drink Tax Act:

A. "bottled soft drink" means any complete, ready-
to-consume soft drink contained in a closed or sealed glass,
metal, paper, plastic or other type of container regardless of
size or shape;

B. "department" means the taxation and revenue
department, the secretary of taxation and revenue or any

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1 employee of the department exercising authority lawfully
2 delegated to that employee by the secretary;

3 C. "soft drink" means a nonalcoholic flavored
4 beverage containing any sweetener additive, such as corn
5 fructose or sugar, and includes:

6 (1) ginger ale and colas or drinks commonly
7 referred to as soft drinks;

8 (2) any fruit or vegetable drink containing
9 ten percent or less natural fruit or vegetable juice; and

10 (3) any package or container of powder, syrup
11 or other base product intended for mixing to produce a liquid
12 soft drink for dispensing at a retail business; and

13 D. "wholesaler" means a person who receives,
14 stores, manufactures, bottles or sells bottled soft drinks,
15 soft drink syrups, simple syrups or powders or base products
16 for mixing, compounding or making soft drinks for sale to
17 retail dealers, other manufacturers, wholesale dealers or
18 distributors for resale purposes.

19 Section 3. [NEW MATERIAL] IMPOSITION AND RATE OF SOFT
20 DRINK TAX. --An excise tax to be known as the "soft drink tax"
21 is imposed on any wholesaler who sells soft drinks as follows:

22 A. two dollars (\$2.00) per gallon of soft drink or
23 soft drink syrup sold or offered for sale in New Mexico;

24 B. twenty-one cents (\$0.21) per gallon of bottled
25 soft drink sold or offered for sale in New Mexico; and

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1 C. on the sale of a package or container of soft
2 drink powder, syrup or other base product, twenty-one cents
3 (\$0.21) per gallon of soft drink that may be produced from each
4 package or container according to the manufacturer's
5 directions.

6 Section 4. [NEW MATERIAL] DEDUCTIONS. -- A wholesaler may
7 deduct the value of soft drinks sold and shipped to a person in
8 another state from the units of soft drinks subject to the tax
9 imposed by the Soft Drink Tax Act; provided that the department
10 may require the wholesaler to submit evidence satisfactory to
11 the department that the units have been sold and shipped to a
12 person in another state.

13 Section 5. [NEW MATERIAL] EXEMPTIONS. -- Exempt from the
14 tax imposed by the Soft Drink Tax Act are soft drinks sold to
15 or by any instrumentality of the armed forces of the United
16 States engaged in resale activities.

17 Section 6. [NEW MATERIAL] DATE PAYMENT DUE. -- The tax
18 imposed by the Soft Drink Tax Act shall be paid on or before
19 the twenty-fifth day of the month following the month in which
20 the taxable event occurs.

21 Section 7. [NEW MATERIAL] REFUND OR CREDIT OF TAX. -- The
22 department shall allow a claim for refund or credit as provided
23 in Sections 7-1-26 and 7-1-29 NMSA 1978 for the tax imposed by
24 the Soft Drink Tax Act and paid on soft drinks or soft drink
25 syrup or powder destroyed in shipment, spoiled or otherwise

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1 damaged so as to be unfit for sale or consumption upon
2 submission of proof satisfactory to the department of such
3 destruction, spoilage or damage.

4 Section 8. [NEW MATERIAL] INTERPRETATION OF ACT--
5 ADMINISTRATION AND ENFORCEMENT OF TAX. --

6 A. The department shall interpret the provisions of
7 the Soft Drink Tax Act.

8 B. The department shall administer and enforce the
9 collection of the soft drink tax, and the Tax Administration
10 Act applies to the administration and enforcement of the tax.

11 Section 9. A new section of the Tax Administration Act is
12 enacted to read:

13 "[NEW MATERIAL] DISTRIBUTION--SOFT DRINK TAX. --Pursuant to
14 the provisions of Section 7-1-6.1 NMSA 1978, the net receipts
15 attributable to the tax imposed pursuant to the Soft Drink Tax
16 Act shall be distributed as follows:

17 A. twenty percent of the net receipts to the
18 department of health for diabetes prevention and public
19 education programs; and

20 B. eighty percent of the net receipts to the
21 university of New Mexico school of medicine for research on
22 diabetes and treatment of patients with diabetes. "

23 Section 10. EFFECTIVE DATE. --The effective date of the
24 provisions of Sections 1 through 8 of this act is July 1, 2003.
25 The effective date of the provisions of Section 9 of this act

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1 is August 1, 2003.

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